

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION**

**WILLIE BETTS, CRYSTAL BOYD,
CHRISTINA CHADWICK, LARRY
FAULKNER, ALKEISHA J. LEA,
PAMELA M. MARABLE, KIRK
MORRIS, SHEINA ROBINSON,
KATRINA D. STANFIELD, BRIAN M.
TUCKER, and TAMIKA KING
WILLIAMS,**

Plaintiffs,

v.

**McDONALD'S CORPORATION,
McDONALD'S USA, LLC, SOWEVA CO.,
4040 HALIFAX ROAD LLC, 1010
PHILPOTT ROAD LLC, 200 VIRGINIA
AVENUE LLC, and MICHAEL SIMON,**

Defendants.

Civil Action No. 4:15cv00002

**DEFENDANT SOWEVA CO.'S MOTION
TO DISMISS PLAINTIFF LEA'S TITLE VII RACE DISCRIMINATION CLAIM**

Defendant Soweve Co. ("Soweve"¹), by counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court for an order dismissing Plaintiff

¹ By submitting the Motion to Dismiss and Supporting Memorandum of Law, Soweve is not conceding that it was Plaintiff Lea's employer. To the contrary, Soweve was not Plaintiff Lea's employer. Moreover, Soweve is not even an employer subject to liability under Title VII because it did not employ the requisite number of employees. In addition, Defendants Soweve, 4040 Halifax Road LLC, 1010 Philpott Road LLC and 200 Virginia Avenue LLC specifically reject and deny Plaintiffs' definition of Soweve in the Amended Complaint. At no time has any EEOC Charge been filed against 4040 Halifax Road LLC, 1010 Philpott Road LLC or 200 Virginia Avenue LLC and, as such, they cannot be named as Defendants to Ms. Lea's Title VII claims contained in the Amended Complaint, including the one specifically at issue in this Motion to Dismiss. Soweve's Motion To Dismiss is filed under the auspices of dismissing any potential Title VII termination claim Plaintiff Lea had related to her August 28, 2014 Dismissal and Notice of Right to Sue letter against any potential Defendant to which the August 28, 2014 Dismissal and Notice of Right to Sue relates.

Alkeisha Lea's (hereinafter "Lea") Title VII race discrimination claim (asserted as the "Fourth Cause of Action" in Plaintiffs' Amended Complaint) should be dismissed as a matter of law against any and all potential Defendants to which the August 28, 2014 relates.for failure to state a claim upon which relief can be granted.

Lea received a Dismissal and Notice of Right to Sue from the Equal Employment Opportunity Commission ("EEOC") dated August 28, 2014, allowing her 90 days to file a lawsuit based on her underlying EEOC Charge of Discrimination, in which she alleged a Title VII race discrimination claim. As articulated in the accompanying memorandum of law, Lea's Title VII race discrimination claim was filed in this Court on April 20, 2015 – well after the expiration of the applicable 90-day limitations period. Accordingly, that claim is time-barred and should be dismissed as a matter of law pursuant to Federal Rule of Civil Procedure 12(b)(6).

WHEREFORE, for the foregoing reasons and the reasons set forth in Soweva's accompanying Memorandum of Law in Support of its Motion to Dismiss, Soweva respectfully requests that this Court dismiss Plaintiff Alkeisha Lea's Title VII race discrimination claim (Count Four of the Amended Complaint) should be dismissed as a matter of law against any and all potential Defendants to which the August 28, 2014 relates.for failure to state a claim upon which relief can be granted, and award it such other relief as the Court deems appropriate.

Dated: May 20, 2015

Respectfully submitted,

SOWEVA CO.

By: /s/ Susan Childers North
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2015, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send notification of such filing to the following:

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